As requested by the Office for search purposes, Applicants elect the species: 3-(2-Hydroxy-2,2-dithien-2-ylacetoxy)-1-methyl-1-(3-phenoxypropyl) pyrrolidinium bromide.

At the Office's request, Applicants also provide the following list of compounds in claims 18-20, 23, and 24 that are with the scope of the subject matter in the elected Group III.

Claim 18

3-(2-Hydroxy-2,2-dithien-2-ylacetoxy)-1-methyl-1-(2-phenoxyethyl)pyrrolidinium bromide;
3-(2-Hydroxy-2,2-dithien-2-ylacetoxy)-1-methyl-1-(3-phenoxypropyl) pyrrolidinium bromide;
1-Ethyl-3-(2-Hydroxy-2,2-dithien-2-ylacetoxy)-1-[3-(3-hydroxyphenoxy)propyl]pyrrolidinium trifluoroacetate;
3-(2-Hydroxy-2,2-dithien-2-ylacetoxy)-1-methyl-1-[6-(4-phenylbutoxy)hexyl]pyrrolidinium trifluoroacetate;
1-(2-Benzyloxyethyl)-3-(2-cyclohexyl-2-fur-2-yl-2-hydroxyacetoxy)-1-methylpyrrolidinium trifluoroacetate;
1-[3-(3-Cyanophenoxy)propyl]-3-(2-cyclohexyl-2-fur-2-yl-2-hydroxyacetoxy)-1-methylpyrrolidinium trifluoroacetate;
3-(2-Cyclohexyl-2-fur-2-yl-2-hydroxyacetoxy)-1-methyl-1-[3-(naphthalen-1-yloxy)propyl]pyrrolidinium trifluoroacetate;
3-(2-Cyclohexyl-2-fur-2-yl-2-hydroxyacetoxy)-1-ethyl-1-(3-phenylsulphanylpropyl)pyrrolidinium trifluoroacetate;
1-[3-(Benzothiazol-2-yloxy)propyl]-3-(2-cyclohexyl-2-fur-2-yl-2-hydroxyacetoxy)-1-methylpyrrolidinium trifluoroacetate;
3-(2-Cyclopentyl-2-hydroxy-2-phenylacetoxy)-1-methyl-1-(3-phenoxypropyl)pyrrolidinium bromide;
3-(2-Cyclopentyl-2-hydroxy-2-phenylacetoxy)-1-methyl-1-[3-(2,4,6-trimethylphenoxy)propyl]pyrrolidinium trifluoroacetate;

1-[3-(2-Chlorophenoxy)propyl]-3-(2-cyclopentyl-2-hydroxy-2-phenylacetoxy)-1-methylpyrrolidinium trifluoroacetate;

3-(2-Cyclopentyl-2-hydroxy-2-phenylacetoxy)-1-methyl-1-[3-(3-trifluoromethylphenoxy)propyl]pyrrolidinium trifluoroacetate;

1-[3-(Biphenyl-4-yloxy)propyl]-3-(2-cyclopentyl-2-hydroxy-2-phenylacetoxy)-1-methylpyrrolidinium trifluoroacetate;

3-(2-Cyclopentyl-2-hydroxy-2-phenylacetoxy)-1-[3-(2,4-difluorophenoxy)propyl]-1-methylpyrrolidinium trifluoroacetate;

3-(2-Cyclopentyl-2-hydroxy-2-phenylacetoxy)-1-ethyl-1-[3-(4-methoxyphenoxy)propyl]-pyrrolidinium trifluoroacetate;

3-(2-Cyclopentyl-2-hydroxy-2-phenylacetoxy)-1-methyl-1-[3-(5,6,7,8-tetrahydronaphthalen-2-yloxy)propyl]pyrrolidinium trifluoroacetate;

3-(2-Cyclopentyl-2-hydroxy-2-phenylacetoxy)-1-methyl-1-[3-(1-methyl-1H-imidazol-2-ylsulphanyl)propyl]pyrrolidinium trifluoroacetate;

3-(2-Hydroxy-2,2-dithien-2-ylacetoxy)-1-[3-(3-hydroxyphenoxy)propyl]-1-methylpyrrolidinium formate;

1-[3-(4-Fluorophenoxy)propyl]-3-(2-hydroxy-2,2-dithien-2-ylacetoxy)-1-methylpyrrolidinium chloride;

3-(2-Cyclohexyl-2-fur-2-yl-2-hydroxyacetoxy)-1-ethyl-1-(3-phenylsulfanylpropyl)pyrrolidinium bromide.

Claim 19

(3R)-3-(2-Hydroxy-2,2-dithien-2-ylacetoxy)-1-methyl-1-(2-phenoxyethyl)pyrrolidinium bromide;

(3S)-3-(2-Hydroxy-2,2-dithien-2-ylacetoxy)-1-methyl-1-(2-phenoxyethyl)pyrrolidinium bromide;

(3R)-3-(2-Hydroxy-2,2-dithien-2-ylacetoxy)-1-methyl-1-(3-phenoxypropyl)pyrrolidinium bromide;

(3S)-3-(2-Hydroxy-2,2-dithien-2-ylacetoxy)-1-methyl-1-(3-phenoxypropyl)pyrrolidinium bromide;

(3R)-3-[(2R)-2-Cyclohexyl-2-fur-2-yl-2-hydroxyacetoxy]-1-ethyl-1-(3-phenylsulphanylpropyl)pyrrolidinium trifluoroacetate;

(3S)-3-[(2R)-2-Cyclohexyl-2-fur-2-yl-2-hydroxyacetoxy]-1-ethyl-1-(3-phenylsulphanylpropyl)pyrrolidinium trifluoroacetate;

(3R)-3-[(2R)-2-Cyclopentyl-2-hydroxy-2-phenylacetoxy]-1-methyl-1-(3-phenoxypropyl)pyrrolidinium bromide;

(3S)-3-[(2R)-2-Cyclopentyl-2-hydroxy-2-phenylacetoxy]-1-methyl-1-(3-phenoxypropyl)pyrrolidinium bromide;

(3R)-3-[(2S)-2-Cyclopentyl-2-hydroxy-2-phenylacetoxy]-1-methyl-1-(3-phenoxypropyl)pyrrolidinium bromide;

(3S)-3-[(2S)-2-Cyclopentyl-2-hydroxy-2-phenylacetoxy]-1-methyl-1-(3-phenoxypropyl)pyrrolidinium bromide;

(3S)-3-(2-Hydroxy-2,2-dithien-2-ylacetoxy)-1-[3-(3-hydroxyphenoxy)propyl]-1-methylpyrrolidinium formate;

(3R)-1-[3-(3-Cyanophenoxy)propyl]-3-(2-cyclohexyl-2-fur-2-yl-2-hydroxyacetoxy)-1-methylpyrrolidinium formate;

(3R)-3-(2-Cyclohexyl-2-fur-2-yl-2-hydroxyacetoxy)-1-methyl-1-[3-(naphthalen-1-yloxy)propyl]pyrrolidinium formate;

(3R)-1-[3-(Benzothiazol-2-yloxy)propyl]-3-(2-cyclohexyl-2-fur-2-yl-2-hydroxyacetoxy)-1-methylpyrrolidinium chloride;

(3R)-1-[3-(Biphenyl-4-yloxy)propyl]-3-[(2R)-2-cyclopentyl-2-hydroxy-2-phenylacetoxy]-1-methylpyrrolidinium chloride;

(3R)-3-[(2R)-2-Cyclopentyl-2-hydroxy-2-phenylacetoxy]-1-methyl-1-[3-(5,6,7,8-tetrahydronaphthalen-2-yloxy)propyl]pyrrolidinium bromide;

(3R)-3-[(2R)-2-Cyclopentyl-2-hydroxy-2-phenylacetoxy]-1-methyl-1-[3-(1-methyl-1H-imidazol-2-ylsulfanyl)propyl]pyrrolidinium chloride;

(3R)-1-[3-(2-Chlorophenoxy)propyl]-3-[(2R)-2-cyclopentyl-2-hydroxy-2-phenylacetoxy]-1-methylpyrrolidinium chloride;

3-[(2R)-2-Cyclopentyl-2-hydroxy-2-phenylacetoxy]-1-ethyl-1-[3-(4-methoxyphenoxy)propyl]pyrrolidinium bromide; and

(3R)-1-(2-Benzyloxyethyl)-3-(2-cyclohexyl-2-fur-2-yl-2-hydroxyacetoxy)-1-methylpyrrolidinium bromide.

Claim 20

(1*,3R)-3-(2-Hydroxy-2,2-dithien-2-ylacetoxy)-1-methyl-1-(2-phenoxyethyl)pyrrolidinium bromide (diastereomer 1);
(1*,3R)-3-(2-Hydroxy-2,2-dithien-2-ylacetoxy)-1-methyl-1-(2-phenoxyethyl)pyrrolidinium bromide (diastereomer 2);
(1*,3S)-3-(2-Hydroxy-2,2-dithien-2-ylacetoxy)-1-methyl-1-(2-phenoxyethyl)pyrrolidinium bromide (diastereomer 1);
(1*,3S)-3-(2-Hydroxy-2,2-dithien-2-ylacetoxy)-1-methyl-1-(2-phenoxyethyl)pyrrolidinium bromide (diastereomer 2);
(1*,3R)-3-(2-Hydroxy-2,2-dithien-2-ylacetoxy)-1-methyl-1-(3-phenoxypropyl)pyrrolidinium bromide (diastereomer 1);
(1*,3R)-3-(2-Hydroxy-2,2-dithien-2-ylacetoxy)-1-methyl-1-(3-phenoxypropyl)pyrrolidinium bromide (diastereomer 2);
(1*,3S)-3-[(2R)-2-Cyclopentyl-2-hydroxy-2-phenylacetoxy]-1-methyl-1-(3-phenoxypropyl)pyrrolidinium bromide (diastereomer 1);
(1*,3S)-3-[(2R)-2-Cyclopentyl-2-hydroxy-2-phenylacetoxy]-1-methyl-1-(3-phenoxypropyl)pyrrolidinium bromide (diastereomer 2);
(1*,3S)-1-[3-(4-Fluorophenoxy)propyl]-3-(2-hydroxy-2,2-dithien-2-ylacetoxy)-1-methylpyrrolidinium chloride (diastereomer 1);
(1*,3S)-1-[3-(4-Fluorophenoxy)propyl]-3-(2-hydroxy-2,2-dithien-2-ylacetoxy)-1-methylpyrrolidinium chloride (diastereomer 2);
(1*,3R)-3-[(2R)-2-Cyclopentyl-2-hydroxy-2-phenylacetoxy]-1-methyl-1-(3-phenoxypropyl)pyrrolidinium bromide (diastereomer 1);
(1*,3R)-3-[(2R)-2-Cyclopentyl-2-hydroxy-2-phenylacetoxy]-1-methyl-1-(3-phenoxypropyl)pyrrolidinium bromide (diastereomer 2);
(1*, 3R)-1-[3-(Biphenyl-4-yloxy)propyl]-3-[(2R)-2-cyclopentyl-2-hydroxy-2-phenylacetoxy]-1-methylpyrrolidinium chloride (diastereomer 1);
(1*, 3R)-1-[3-(Biphenyl-4-yloxy)propyl]-3-[(2R)-2-cyclopentyl-2-hydroxy-2-phenylacetoxy]-1-methylpyrrolidinium chloride (diastereomer 2);

(1*, 3R)-3-[(2R)-2-Cyclopentyl-2-hydroxy-2-phenylacetoxy]-1-methyl-1-[3-(5,6,7,8-tetrahydronaphthalen-2-yloxy)propyl]pyrrolidinium bromide (diastereomer 1); and
(1*, 3R)-3-[(2R)-2-Cyclopentyl-2-hydroxy-2-phenylacetoxy]-1-methyl-1-[3-(5,6,7,8-tetrahydronaphthalen-2-yloxy)propyl]pyrrolidinium bromide (diastereomer 2).

Claim 23

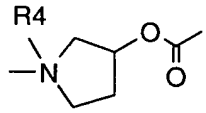
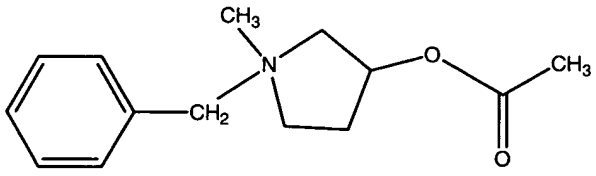
2-Hydroxy-2,2-dithien-2-ylacetic acid (3R)-1-(2-phenoxyethyl)pyrrolidin-3-yl ester; and
2-Hydroxy-2,2-dithien-2-ylacetic acid (3R)-1-(3-phenoxypropyl)pyrrolidin-3-yl ester.

Claim 24

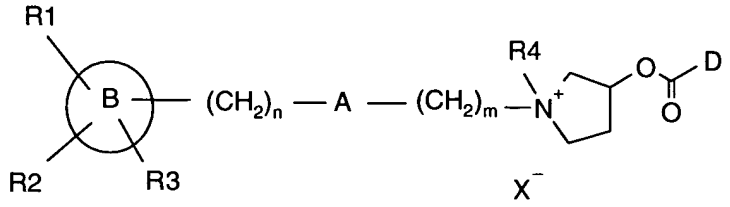
(3R)-1-(3-phenoxypropyl)pyrrolidin-3-ol.

Traversal of Restriction Requirement

Applicants traverse the restriction requirement because the Office applied the standard of unity of invention incorrectly.

The Office argues that the claims lack a technical feature that defines a contribution over the prior art. The Office argues that the "structural moiety common to Groups I-IX is  " and that "[t]his technical feature is not a special technical feature, because it fails to define a contribution over the compound of the prior art  by Clarkson et al. *Journal of Neurochemistry* 1992, (59(2), 695-700." Office Action at p. 7. However, the Office has narrowly determined the unifying technical feature that provides Unity of Invention to the present claims. The compounds of the invention are antimuscarinic antagonists with high

affinity for the muscarininc M3 receptor. Specification at p.1, lines 6-8. Moreover, the Office failed to consider that the compounds of the invention have the general formula:



which clearly defines a novel technical feature over the reference cited by the Office. For at least these reasons, the Office has failed to prove lack of unity of invention and Applicants respectfully request that the Restriction Requirement be withdrawn.

The Office further argues that the present claims do not comply with 37 C.F.R. § 1.475(b) because the "claims are drawn to more than one product, process, and method of use." Office Action at p. 8. However, the present claims comply with 37 C.F.R. § 1.475(b) subparagraph (3), for being directed to products, processes specially adapted for the manufacture of the said products, and uses of said products. The Office appears to suggest that only sets of claims drawn to a *single product*, a *single process*, and a *single use* would have unity of invention. The Office's interpretation, however, is contrary to common sense and to the context provided by 37 C.F.R. § 1.475(b). The preamble of 37 C.F.R. § 1.475(b) clearly refers to "application[s] containing claims to different *categories* of invention" (emphasis added). Therefore, 37 C.F.R. § 1.475(b) simply refers to acceptable combinations of *categories of inventions* (products, processes, methods of use, devices, etc) that comply with the unity of invention standard. Because the present claims comply with 37 C.F.R. § 1.475(b), Applicants respectfully request that this Restriction Requirement be withdrawn.

Moreover, with respect to the Office's decision to restrict examination of the invention to groups encompassing only a subset of the full subject matter of claim 1, Applicants remind the office that "it is improper for the Office to refuse to examine that which applicants regard as their invention, unless the subject matter in a claim lacks unity of invention. Broadly, unity of invention exists where compounds included within a

Markush group (1) share a common utility, and (2) share a substantial structural feature essential to that utility." M.P.E.P. § 803.02 (internal citations omitted).

As mentioned previously, in this case, Applicants' compounds a) share the common utility of being antimuscarinic antagonists with high affinity for the muscarininc M3 receptor; and b) share the structural feature of the general formula present in claim 1. For at least this reason, the restriction requirement breaking up the subject matter of claim 1 is improper, and Applicants respectfully request that, at the very least, the full scope of claim 1 and all of its dependent claims be examined together.

Finally, the Office indicates that any of Groups I to VI would be "subject to further restriction, if elected." Further restriction would constitute improper piecemeal examination, condemned by M.P.E.P. §707.07(g). A Restriction Requirement should include all and final groups of claims subject to election/restriction so that an Applicant can make an informed decision upon receipt of the original Office Action. Should the Office refuse to withdraw the Restriction Requirement, Applicants request that the elected Group II not be further restricted.

Please grant any extensions of time not requested elsewhere but required to enter this response, and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
Respectfully submitted,

By:_____

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Reg. No. 48,638

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